

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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ITOFFEE R. GAYLE,

Plaintiff,

-against-

19 **CIVIL** 4699 (LTS)(DCF)

**JUDGMENT**

HEARST COMMUNICATIONS, INC.,

Defendant.  
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It is hereby **ORDERED, ADJUDGED AND DECREED:** That for the reasons stated in the Court's Memorandum Opinion and Order dated January 28, 2021, the Defendant's motion to dismiss the Plaintiff's complaint is granted. Although leave to amend a complaint should be freely given "when justice so requires," Fed. R. Civ. P. 15(a)(2), "it is within the sound discretion of the district court to grant or deny leave to amend." *McCarthy v. Dun & Bradstreet Corp.*, 482 F.3d 184, 200 (2d Cir. 2000). Here, leave to amend the complaint is unwarranted because Plaintiff has neither requested permission to amend his complaint nor given any indication that he is ready and able to plead facts that would cure the substantive defects identified in the instant motion to dismiss, such that leave to amend would not be futile. For these reasons, Plaintiff's complaint is dismissed with prejudice. The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from the order would not be taken in good faith, and therefore in forma pauperis status is denied for the purpose of an appeal. See *Coppedge v. United States*, 369 U.S. 438, 44445 (1962); accordingly, this case is closed.

**Dated:** New York, New York

January 28, 2021

**RUBY J. KRAJICK**

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**Clerk of Court**

BY:

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**Deputy Clerk**